

# SENATE BILL No. 558

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1.

**Synopsis:** Land classification for tax purposes. Specifies the criteria for classifying land as agricultural land for property tax assessment purposes. Provides that certain undeveloped lands must be assessed as agricultural land regardless of the motives of the owner at the time the owner acquired the land, the zoning designation of the land, or whether the owner uses the land for growing crops or raising livestock or is otherwise engaged in the business of farming. Requires assessing officials to review for compliance with the new criteria the assessments of lands that had been classified as excess residential property for the 2005 through 2015 assessment dates and to reclassify as agricultural land as necessary for the 2016 assessment date. Authorizes refunds for excessive tax payments attributable to the reclassification of land during that period. Provides that the limitations on contracts for the discovery of undervalued or omitted property apply to a contract concerning the reclassification of parcels, including the prohibition on contracts paid on a percentage basis.

**Effective:** Upon passage.

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January 20, 2015, read first time and referred to Committee on Tax & Fiscal Policy.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 558

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-4-13, AS AMENDED BY P.L.85-2014,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 13. (a) In assessing or reassessing land, the  
4 land shall be assessed as agricultural land ~~only when it is devoted to~~  
5 ~~agricultural use.~~ **if the land is classified as agricultural land under**  
6 **IC 6-1.1-4.5.**  
7 (b) The department of local government finance shall give written  
8 notice to each county assessor of:  
9 (1) the availability of the United States Department of  
10 Agriculture's soil survey data; and  
11 (2) the appropriate soil productivity factor for each type or  
12 classification of soil shown on the United States Department of  
13 Agriculture's soil survey map.  
14 All assessing officials and the property tax assessment board of appeals  
15 shall use the data in determining the true tax value of agricultural land.  
16 However, notwithstanding the availability of new soil productivity



factors and the department of local government finance's notice of the appropriate soil productivity factor for each type or classification of soil shown on the United States Department of Agriculture's soil survey map for the March 1, 2012, assessment date, the soil productivity factors used for the March 1, 2011, assessment date shall be used for the March 1, 2012, assessment date, the March 1, 2013, assessment date, and the March 1, 2014, assessment date. New soil productivity factors shall be used for assessment dates occurring after March 1, 2014.

(c) The department of local government finance shall by rule provide for the method for determining the true tax value of each parcel of agricultural land.

~~(d) This section does not apply to land purchased for industrial, commercial, or residential uses.~~

SECTION 2. IC 6-1.1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 4.5. Land Classification**

**Sec. 1. This chapter applies to an assessment date occurring after December 31, 2004.**

**Sec. 2. As used in this chapter, "agricultural land" means any of the following:**

- (1) Land ordinarily used for growing crops.
- (2) Land ordinarily used for raising livestock or poultry.
- (3) Undeveloped land that must be assessed as agricultural land under section 6 of this chapter.
- (4) Undeveloped land that must be assessed as agricultural land under IC 6-1.1-4-12.

**Sec. 3. As used in this chapter, "excess residential land" means the part of a parcel that is:**

- (1) in excess of an included homestead; and
- (2) maintained or used as a lawn or as an ornamental or decorative garden consisting of any combination of the following:
  - (A) Paths.
  - (B) Fountains, statues, or similar architectural features.
  - (C) Plants that are not grown for human or animal consumption.

**Sec. 4. As used in this chapter, "livestock" means the following:**

- (1) Cattle.
- (2) Sheep.
- (3) Swine.



- (4) Goats.
- (5) Bison.
- (6) Farm-raised cervidae.
- (7) Horses.
- (8) Mules.
- (9) Other equine.

Sec. 5. As used in this chapter, "poultry" means domesticated fowl, including the following:

- (1) Chickens.
- (2) Turkeys.
- (3) Ostriches.
- (4) Emus.
- (5) Rheas.
- (6) Cassowaries.
- (7) Waterfowl.
- (8) Game birds.

The term does not include doves and pigeons.

Sec. 6. (a) An undeveloped land that is adjacent to a pond, lake, river, or stream, an undeveloped woodland, wetland, field, thicket, or ravine, or any similar undeveloped land must be assessed as agricultural land regardless of:

- (1) the motives of the owner at the time the owner acquired the land;
- (2) the zoning designation of the land; or
- (3) whether the owner:
  - (A) uses the land for growing crops or raising livestock or poultry; or
  - (B) is otherwise engaged in the business of farming.

(b) Granting an easement for the passage of:

- (1) pipelines or other underground utilities; or
- (2) overhead electric and telecommunication lines;

through land described in subsection (a) may not be considered a change in the use of the land.

Sec. 7. A landowner's decision not to grow crops or raise livestock on the landowner's land in a particular year may not be considered a change in the use of the land.

Sec. 8. (a) An assessing official may not reclassify a taxpayer's parcel of agricultural land as excess residential land unless the assessing official provides the taxpayer with written notice of the change in classification at least one hundred eighty (180) days before the assessment date. Upon the request of the taxpayer, the property tax assessment board of appeals for the county in which



the parcel is located shall conduct a hearing on the proposed change in classification. If the assessing official proves by a preponderance of the evidence that:

(1) the taxpayer's land has been subdivided into lots; or

(2) the taxpayer's use of the parcel has changed;

so that the parcel is not eligible for assessment as agricultural land, the property tax assessment board of appeals shall approve the reclassification of the taxpayer's parcel.

(b) Section 9 of this chapter applies to land reclassified under this section.

Sec. 9. (a) This section does not apply to land that is subject to assessment under IC 6-1.1-4-12.

(b) Except as provided in subsections (c) and (d), if:

(1) agricultural land is subdivided into lots; or

(2) agricultural land is put to a different use;

the agricultural land shall be reassessed on the basis of its new classification.

(c) Subject to subsection (d), agricultural land may not be reassessed until the next assessment date following the earliest of:

(1) the date on which title to the agricultural land is transferred to a person that is not a land developer;

(2) the date on which construction of a structure begins on the land; or

(3) the date on which a building permit is issued for construction of a building or structure on the land.

(d) Subsection (c) applies regardless of whether the agricultural land is rezoned while the owner of the agricultural land holds title to the land.

Sec. 10. (a) To ensure compliance with sections 6 through 9 of this chapter, a county assessor shall do the following:

(1) Review for compliance with sections 6 through 9 of this chapter the assessments of any land that a township assessor or the county assessor had reclassified as excess residential property for an assessment date occurring after December 31, 2004, and before January 1, 2016.

(2) Restore the agricultural land classification to any parcel that is properly classified as agricultural land under this chapter for the 2016 assessment date.

(b) Notwithstanding IC 6-1.1-26, a taxpayer is entitled to a refund equal to the amount of excessive tax payments made in the period described in subsection (a) that are attributable to an improper reclassification of the taxpayer's agricultural land. A



1 taxpayer claiming a refund under this subsection must submit a  
 2 claim to the county auditor on a form prescribed by the  
 3 department of local government finance. However, a refund claim  
 4 submitted under this subsection after December 31, 2017, is  
 5 barred.

6 Sec. 11. IC 6-1.1-36-12 applies to any contract between a person  
 7 and a board of county commissioners, a county assessor, or a  
 8 township assessor for any of the following purposes:

9 (1) To identify parcels for reclassification.

10 (2) To consult on any decision to reclassify a parcel.

11 (3) To defend a decision to reclassify a parcel in any  
 12 proceeding conducted under this article or in any proceeding  
 13 before the Indiana board, the tax court, or the Indiana  
 14 supreme court.

15 SECTION 3. IC 6-1.1-20.6-0.5, AS ADDED BY P.L.146-2008,  
 16 SECTION 213, IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE UPON PASSAGE]: Sec. 0.5. As used in this chapter,  
 18 "agricultural land" refers to land assessed as agricultural land under:

19 (1) IC 6-1.1-4-13; and

20 (2) the real property assessment rules and guidelines of the  
 21 department of local government finance.

22 SECTION 4. An emergency is declared for this act.

